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TELECOPY/FACSIMILE COVER LETTER

TO: PCT LEGAL DEPARTMENT
ATTN: AMY VANATTA

DATE: July 13, 2005

FROM: Carol W. Burton, Esq.
Hogan & Hartson LLP

TIME: _____

TOTAL NO. OF PAGES, INCLUDING COVER: 8

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MESSAGE:

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TELECOPY/FAX NUMBER: 571.273.0459

CLIENT NUMBER: 20617.0004

ATTORNEY BILLING NUMBER: 73049

CONFIRMATION NUMBER: _____

Attorney Docket No. TOMK0004
Client/Matter No. 20617.0004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	10/520,771	Confirmation No.
Applicant:	Mohammad Reza MEHRABI	Title: USE OF ALPROSTADIL (PROSTAGLANDIN E1) FOR PRODUCING A MEDICAMENT FOR ANGIONEOGENESIS
Filed:	January 10, 2005	
TC/A.U.		
Examiner:		
Docket No.	TOMK0004	
<u>Customer No. 25235</u>		

CERTIFICATE OF FACSIMILE TRANSMITTAL

PCT Legal Department
Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

The undersigned hereby certifies that the attached

1. Renewed Submission Under 37 CFR 1.137(b);
2. Copy of Decision on Petition Under 37 CFR 1.137(b)
3. Supplemental Declaration of Applicant; and

this Certificate of Facsimile Transmittal relating to the above application, were faxed to 571.273.0459 on July 13, 2005.

July 13, 2005



Mailer

Dane Stephenson

Attorney Docket No. TOMK0004
Client/Matter No. 20617.0004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	10/520,771	Confirmation No.
Applicant:	Mohammad Reza MEHRABI	Title: USE OF ALPROSTADIL (PROSTAGLANDIN E1) FOR PRODUCING A MEDICAMENT FOR ANGIONEOGENESIS
Filed:	January 10, 2005	
TC/A.U.		
Examiner:		
Docket No.	TOMK0004	
Customer No.	25235	

RENEWED SUBMISSION UNDER 37 CFR 1.137(b)

PCT Legal Administration
Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

A Decision on Petition Under 37 CFR 1.137(b) was mailed June 23, 2005, in the above case. A copy of the Decision is attached.

The Decision Dismissed the previously-filed Petition for Revival Under 37 CFR 1.137(b) without prejudice, noting that:

The petition was accompanied by the requisite basic national fee required by 35 U.S.C. 371(c)(1), a copy of the international application as required by 35 U.S.C. 371(c)(2), the petition fee of \$1,500 and a declaration of the applicant.

- The requirements of 37 CFR 1.137(b)(1) were satisfied.
- The requirements of 37 CFR 1.137(b)(2) were satisfied.
- A terminal disclaimer was not required.
- Applicant's statement that the entire delay in filing the required reply from the date of the required reply until the filing of a grantable petition was unintentional, failed to account for 5 days (from 24 March 2002 to 29 March 2002) and thus did not address the entire delay.

In response to the Decision, and in supplement to the Petition and documents previously filed in this case (all of which are incorporated herein by this reference), enclosed please find a Supplemental Declaration of Mohammad Reza Mehrabi, the applicant in this case. In the Supplemental Declaration, Mr. Mehrabi declares as follows:

- I do hereby state that the failure to file such a U.S. patent application was at all times on and after March 24, 2002, unintentional.

Because Mr. Mehrabi has now affirmatively addressed the entire delay period, all requirements for revival of the U.S. national filing of PCT/AT00/00252 are now believed to have been met. Accordingly, on behalf of the applicant, granting of the the Petition for Revival Under 37 CFR 1.137(b) previously filed, as supplemented herein, is believed proper. Such action is respectfully requested.

No additional fees are believed due with this filing. However, any fee associated herewith may be charged to Deposit Account No. 50-1123.

The Office is asked to telephone the undersigned if any issues remain.

Respectfully submitted,

July 13, 2005


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23 JUN 2005

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JUN 27 2005

HOGAN & HARTSON LLC

In re Application of MEHRABI
 Application No.: 10/520,771
 PCT Application No.: PCT/AT00/00252
 Int. Filing Date: 21 September 2000
 Priority Date Claimed: 24 September 1999
 Attorney Docket No.: TOMK0004
 For: USE OF ALPROSTADIL (PROSTAGLANDIN
 E1) FOR PRODUCING A MEDICAMENT FOR
 ANGIONEOGENESIS

DECISION ON PETITION
 UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 10 January 2005 is DISMISSED without prejudice as discussed below.

BACKGROUND

On 21 September 2000, applicant filed international application PCT/AT00/00252. The international application claims a priority date of 24 September 1999 and designates the United States. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 05 April 2001. The deadline to pay the basic national fee was thirty months from the priority date, that is 24 March 2002. The application became abandoned at midnight 24 March 2002 for failure to pay the basic national fee.

On 10 January 2005, applicant filed the instant petition for revival accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application as required by 35 U.S.C. 371(c)(2), the petition fee of \$1500, and a declaration of the applicant.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be

Application Number: 10/520,771

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accompanied by (1) a proper reply, (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). A payment of the basic national fee constitutes a proper reply for entry into the national stage.

The submission of the national fee and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). A terminal disclaimer is not required because the application was filed on or after 08 June 1995.

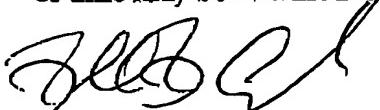
Applicant's petition states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional". Applicant's declaration incorrectly lists the priority date as 29 September 1999 rather than 24 September 1999, and states that the failure to file a U.S. national application was "at all times on and after March 29, 2002, unintentional". The due date for the reply, however, was 24 March 2002. Thus, applicant's statement in the declaration regarding the unintentional delay leaves a time period of five days unaccounted for and therefore does not address the entire delay from the due date for the reply until the filing of a grantable petition. The declaration does not satisfy the requirements of 37 CFR 1.137(b)(3) because the statement in the declaration does not indicate that the delay in the period from 24 March 2002 until 29 March 2002 was unintentional.

CONCLUSION

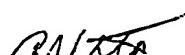
For the above reasons, the petition filed on 10 January 2005 under 37 CFR 1.137(b) is DISMISSED without prejudice.

The application remains ABANDONED.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.137(b)." Extensions of time may be obtained under 37 CFR 1.136(a).



Richard Cole
PCT Legal Examiner
PCT Legal Administration



Amy Vanatta
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PCT Legal Administration
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Attorney Docket No. TOMK0004
Client/Matter No. 20617.0004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. 10/520,771

Confirmation No.

Applicant: Mohammad Raza MEHRABI

Title: USE OF ALPROSTADIL
(PROSTAGLANDIN E1)
FOR PRODUCING A
MEDICAMENT FOR
ANGIONEOGENESIS

Filed:

TC/A.U.

Examiner:

Docket No. TOMK0004

Customer No. 25235

SUPPLEMENTAL DECLARATION OF MOHAMMAD REZA MEHRABI

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

In supplement and correction to my previous Declaration filed with a Petition In the above application, Mohammed Reza MEHRABI, do declare as follows:

1. I am the applicant/sole inventor of PCT/AU01/00252 filed September 21, 2000, which claims priority of Austria Patent application No. A 1635/99 filed September 24, 1999, from which the present application is a U.S. national filing.
2. I now realize that March 24, 2002 was the deadline for filing a U.S. patent application based upon PCT/AU01/00252. As stated in my previous Declaration, I learned later a U.S. national filing was not undertaken by that date.
3. When I learned a national filing was not completed in the U.S. for PCT/AU01/00252 by the U.S. national filing deadline, I promptly authorized European patent counsel to engage U.S. patent counsel to undertake a U.S. national filing as promptly as possible.

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4. I do hereby state that the failure to file such a U.S. patent application was at all times on and after March 24, 2002, unintentional.
5. I hereby declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. I further declare I understand that willful false statements and the like made herein are punishable by fine or imprisonment, or both (18 U.S.C. § 1001) and may jeopardize the validity of the above-referenced application or any patent issuing thereon.

Respectfully submitted,

July 1, 2005
June 2005


Mohammad Reza MEHRABI